

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION**

IN RE: A.C.M. HOME HEALTH SERVICES, INC., \* CASE NO. 11-70504-M-11  
DEBTOR \* CHAPTER 11 PROCEEDING

**DEBTOR'S EMERGENCY MOTION  
FOR USE OF CASH COLLATERAL, REQUEST FOR TEMPORARY RELIEF AND  
REQUESTING A FURTHER EMERGENCY HEARING ON AUGUST 24, 2011**

**RULE 9013 NOTICE**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING, UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS.

TO THE HONORABLE U. S. BANKRUPTCY JUDGE :

Comes now, A.C.M. Home Health Services, Inc., Debtor-in-Possession, (herein "Debtor") and files this Emergency Motion For Use of Cash Collateral, Request for Temporary Relief and Requesting a Further hearing on August 24, 2011 pursuant to 11 U.S.C. §363(c)(2), and would show the court the following:

**I. Introduction**

1. Debtor filed its petition under Chapter 11 of Title 11 of the United States Code on August 16, 2011, and since such date has continued in possession of its property and operation of its business as Debtor-in-Possession, pursuant to 11 U.S.C. §§1107 & 1108. This Court has not

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appointed a Trustee or Examiner nor has an official committee been established in this Chapter 11 proceeding.

## **II. Background**

2. Prior to the commencement of this proceeding, the Debtor was engaged, and continues to be engaged in home health industry.

3. Debtor's business includes inventory, accounts and equipment, all of which (except equipment subject to leases or purchase money security interests) are believed to be subject to security interests and liens granted by Debtors to various creditors listed in its bankruptcy schedules.

## **III. Relief Requested**

4. The proceeds of the inventory and accounts generated in the ordinary course of business constitute cash collateral as that term is defined in 11 U.S.C. §363. In the course of its operations, the Debtor is continuing operations, selling inventory and collecting profits on a daily basis. Attached hereto is a 90-day income and expense projection for such operations. In accordance with the requirements of 11 U.S.C. §363(c)(4) such proceeds have been segregated in a separate bank account. Debtor is requesting the use of cash collateral on an interim basis and requesting a further hearing.

## **IV. Argument & Authorities**

5. Pursuant to 11 U.S.C. §363(c)(2), the Debtor may not use, sell or lease cash collateral unless each entity that has an interest in such cash collateral consents; or, the Court, after notice and hearing, authorizes such use, sale, or lease in accordance with the provisions of this section.

6. Debtor has no source of income other than from the continued operations, selling of equipment and inventory. If the Debtor is not permitted to use such proceeds it will have to close down its operations forthwith without paying its employees, and without replacing any inventory or paying any expenses. Such expenses include, but are not limited to employee salaries, payroll taxes, inventory, purchases, lease payments, maintenance, utilities, property taxes, vehicle expenses, telecommunications, suppliers and other administrative expenses. Debtor must have a preliminary hearing on this motion if a closing down of operations and the consequent

immediate and irreparable harm to the estate are to be avoided.

7. In the event debtor is authorized to use such cash collateral, lien holders are adequately protected by the value of the debtor in possession's real property, inventory, furniture and fixtures. Debtor will provide continuing post-petition liens to the lien holders to the extent the lien holders have valid pre-petition security interests in cash collateral.

WHEREFORE, debtor prays for a preliminary hearing on **AUGUST 24, 2011**, on this motion in order that immediate and irreparable harm to the estate may be avoided; that this Court conduct a prompt hearing on the Emergency Motion for Use of Cash Collateral, wherein the Court authorizes continued use of cash collateral subject to a final hearing after notice to all creditors and parties in interest; for leave of the court to pay on Monday of the first week following the filing of this Motion, the wages and commissions due to their employees for the pay period ending on such date; for leave of the court to continue operations based on the 90 day income and projection attached hereto as **Exhibit "A"** and for such other and further relief as is just and equitable.

Respectfully submitted,

By: /s/ Eduardo V. Rodriguez

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State Bar No. 00795621  
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Attorney in charge for Debtor

**UNITED STATES BANKRUPTCY COURT  
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**CERTIFICATE OF SERVICE**

I hereby certify that on August 16, 2011 , I served a copy of the foregoing Motion by regular U. S. Mail to the following, unless otherwise requested by electronic filing:

<b>CREDITOR/PARTY IN INTEREST</b>	<b>REGISTERED AGENT</b>
United States Trustee Barbara Jue Wilson Plaza, Ste. 1107 606 N. Carancahua Corpus Christi, Texas 78476	None
Juan & Guadalupe Garcia 620 South Texas Weslaco, Texas 78596	None
Internal Revenue Service Special Procedures 300 East 8 <sup>th</sup> St. STOP 5026AUS Austin, TX 78701	None  None
A.C.M. Home Health Services, Inc. 108 West Whisache Weslaco, Texas 78599	None

and to all of the creditors on the attached matrix

/s/ Eduardo V. Rodriguez  
Eduardo V. Rodriguez

A.C.M. HOME  
HEALTH SERVICES, INC.

## CASH COLLATERAL BUDGET

CASE NO. 11-

		August	September	October
<b>SOURCE OF INCOME</b>	<b>AMOUNT</b>			
Medicaid (DADS)	PHC	\$ 129,193.00	\$ 125,893.00	\$ 129,193.00
Medicaid (MDCP)	MDCP	\$ 16,090.00	\$ 15,571.00	\$ 16,090.00
PCS (TMHP)	PCS	\$ 12,242.00	\$ 12,242.00	\$ 12,242.00
:				
<b>Total Income</b>		<b>\$ 157,525.00</b>	<b>\$ 153,706.00</b>	<b>\$ 157,525.00</b>
<b>SOURCE OF EXPENSE</b>	<b>CREDITOR</b>	<b>AMOUNT</b>		
Payroll		\$ 126,610.00	\$ 126,610.00	\$ 126,610.00
P/R taxes (941)	IRS - 941	\$ 9,686.00	\$ 9,686.00	\$ 9,686.00
P/R taxes (940)	IRS 940	\$ 1,013.00	\$ 1,013.00	\$ 1,013.00
SUI	TWC UMEMPLY	\$ 2,722.00	\$ 2,722.00	\$ 2,722.00
Building payment	JJ Home Builders	\$ 800.00	\$ 800.00	\$ 800.00
Office utilities	Ambit Energy	\$ 240.00	\$ 240.00	\$ 240.00
Office utilities	City of Weslaco (water)	\$ 65.00	\$ 65.00	\$ 65.00
Office telephone	Verizon - OFFICE	\$ 268.00	\$ 268.00	\$ 268.00
Cell Phone	Sprint - CELL	\$ 279.00	\$ 279.00	\$ 279.00
Internet service	Time Warner - INTERNET	\$ 166.00	\$ 166.00	\$ 166.00
Mileage/ Field supervisor	Mileage field supervisor	\$ 134.00	\$ 134.00	\$ 134.00
Misc	Office/ Vehicle	\$ 400.00	\$ 400.00	\$ 400.00
2009 Ford F-150	San Antonio FCU TRK	\$ 682.00	\$ 682.00	\$ 682.00
2009 Ford F-150	Misc ( Vehicle)	\$ 400.00	\$ 400.00	\$ 400.00
Health Insurance Staff	BCBS -Health Ins staff	\$ 1,550.00	\$ 1,550.00	\$ 1,550.00
Life Insurance	New York Life (Adam)	\$ 47.00	\$ 47.00	\$ 47.00
Auto Insurance	Texas Farm Bureau Ins	\$ 219.00	\$ 219.00	\$ 219.00
Building liability Insurance	Reyes Insurance Liab	\$ 331.00	\$ 331.00	\$ 331.00
Copier (Lease)	A & A Copiers	\$ 128.00	\$ 128.00	\$ 128.00
Dell Financial (computers)	Dell Computers	\$ 154.00	\$ 154.00	\$ 154.00
Office supplies	Staples, Quill, Office Dep	\$ 319.00	\$ 319.00	\$ 319.00
Postage	Pitney Bowes postage	\$ 207.00	\$ 207.00	\$ 207.00
Petty Cash	Medical Supplies	\$ 125.00	\$ 125.00	\$ 125.00
Pest Control	South Texas Pest Control	\$ 46.00	\$ 46.00	\$ 46.00
Building Alarm monitoring	All American Security	\$ 29.00	\$ 29.00	\$ 29.00
1120 taxes	Internal Revenue Service	\$ 400.00	\$ 400.00	\$ 400.00
Disability, vision insur	Humana	\$ 448.00	\$ 448.00	\$ 448.00
Accident insurance	Colonial Life	\$ 277.00	\$ 277.00	\$ 277.00
monthly installment	IRS	\$ -	\$ 5,300.00	\$ 5,300.00
<b>Total Expenses</b>	<b>TOTAL</b>	<b>\$ 147,745.00</b>	<b>\$ 153,045.00</b>	<b>\$ 153,045.00</b>
<b>Net Disposable Income</b>		<b>\$ 9,780.00</b>	<b>\$ 661.00</b>	<b>\$ 4,480.00</b>



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7209 N. Westgate  
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Antonio Sanchez  
P.O. Box 1502  
Mercedes, TX 78570

Internal Revenue Service  
Special Procedures  
300 East 8th St., STOP 5026AUS  
Austin, TX 78701

Juan M. Garcia  
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Weslaco, TX 78596